

Department of Defense

§ 9901.920

which organizations are covered under multi-unit bargaining is not subject to review by the Board.

(c) When agreement is reached under this section, individual bargaining units cannot opt out of or veto the agreement.

(d) Any party may request the services of FMCS to assist with these negotiations.

(e) Labor organizations may request multi-unit bargaining, as appropriate. The Secretary has sole and exclusive authority to grant the labor organizations' request.

(f) The Department will prescribe implementing issuances on the procedures and constraints associated with multi-unit bargaining.

§ 9901.919 Collective bargaining above the level of recognition.

(a) Negotiations can occur at the DoD or Component level with labor organization(s) at an organizational level above the level of exclusive recognition. The decision to negotiate at a level above the level of recognition as well as the unions involved, is within the sole and exclusive discretion of the Secretary to determine and will not be subject to review.

(b) Any such agreement reached in these negotiations will—

(1) Be binding on all subordinate bargaining units of the labor organization(s) afforded the opportunity to bargain above the level of recognition, and on DoD and its Components, without regard to levels of recognition;

(2) Supersede all conflicting provisions of other collective bargaining agreements of the labor organization(s), including collective bargaining agreements negotiated with an exclusive representative at the level of recognition, except as otherwise determined by the Secretary;

(3) Not be subject to further negotiations with the labor organizations for any purpose, including bargaining at the level of recognition, except as the Secretary may decide, in his or her sole and exclusive discretion; and

(4) Be subject to review by the Board only to the extent provided by this subpart.

(c) When agreement is reached under this section, individual labor organiza-

tions or bargaining units cannot opt out of or veto the agreement.

(d) Negotiations will be subject to impasse resolution by the Board under procedures prescribed by the Board. In resolving impasses, the Board will ensure that agreement provisions are consistent with regard to all similarly situated employees. The determination as to which organizations are covered under national level bargaining is not subject to review by the Board;

(e) The National Guard Bureau and the Army and Air Force National Guard are excluded from coverage under this section. Where National Guard employees are impacted, negotiations at the level of recognition are authorized.

(f) The Secretary may require and a labor organization or organizations may request bargaining above the level of recognition, as appropriate. The Secretary has sole and exclusive authority to grant such requests; and

(g) The Department will prescribe implementing issuances on the procedures and constraints associated with collective bargaining above the level of recognition.

§ 9901.920 Negotiation impasses.

(a) If the Department and exclusive representative are unable to reach an agreement under §§ 9901.905, 9901.914, 9901.917, 9901.918, or 9901.919, either party may submit the disputed issues to the Board for resolution.

(b) The Board may take whatever action is necessary and not inconsistent with this subpart to resolve the impasse, to include use of settlement efforts.

(c) Pursuant to §§ 9901.907 and 9901.926, the Board's regulations will provide for a single, integrated process to address all matters associated with a negotiations dispute, including unfair labor practices, negotiability disputes, and negotiation impasses.

(d) Notice of any final action of the Board under this section will be promptly served upon the parties. The action will be binding on such parties during the term of the agreement, unless the parties agree otherwise.